IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 914 of 2002()

CRA.186/1996 of ADDL.SESSIONS COURT, KOTTAYAM
CC.505/1993 of JUDL.MAGISTRATE OF FIRST CLASS-I, KANJIRAPPALLY

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REVN. PETITIONER: APPELLANTS/ACCUSED

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1. YESODHARAN, S/O. SREEDHARAN, PUTHENVEETTIL, KORUTHODU P.O., KUZHIMAVU.

2. AMBARAN, KUNNIKOTTU VEEDU, KORUTHODU P.O., KUZHIKOMBU.

3. APPY, S/O. CHACKO, CHAMPAKARA VEEDU, KORUTHODU P.O., KUZHIMAVU.

4. JOHNY, S/O. KARUTHA KUNJU, KUTTIPURATHU VEEDU, KORUTHODU P.O., KUZHIMAVU.

5. PAULOSE, MULLENKUZHI VEEDU, KORUTHODU P.O., KUZHIMAVU.

6. BHADRAN, S/O. PONNAN, CHAMPAKARA VEEDU, KORUTHODU P.O., KUZHIMAVU.

7. THANKAPPAN, KAVAYIL VEEDU, KORUTHODU P.O., KUZHIMAVU.

8. SASI, S/O. SOMAN, KUNNIKOTTU VEEDU, KORUTHODU P.O., KUZHIMAVU.

9. SARASAN, S/O.KARUTHAKUNJU,
KUTTIPURATHU VEEDU, KORUTHODU P.O.,
KUZHIMAVU.

BY ADV. SRI.SURESH BABU THOMAS
SRI.P.RAVINDRA BABU

RESPONDENTS: COMPLAINANT & STATE
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1. KUNJIKRISHNAN NAIR (DIED),
KIDARATHIL VEEDU, KORUTHODU KARA,
ERUMELY, VADAKKE VILLAGE.

2. STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA.

3. K.K.PANKAJAKSHAN NAIR,
S/O. LATE KUNJIKRISHNAN NAIR,
KIDARATHIL HOUSE, KORUTHODU KARA,
ERUMELY NORTH VILLAGE.

BY PUBLIC PROSECUTOR SRI. C.M. NAZAR
SMT.GIRIJA.L.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 27/11/2007, ALONG WITH CRRP NO. 915 OF 2002 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl. R.P. Nos. 914 of 2002 &
915 of 2002

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Dated: 27th November 2007

O R D E R

The revision petitioners in Crl R.P. No. 914 of 2002 are accused Nos. 5 to 11, 17 and 18 and the revision petitioners in Crl.R.P. 915 of 2002 are accused Nos. 1 to 4 and 12 to 16 in C.C. 505 of 1993 on the file of the J.f.C.M. Kanjirappally. The revision petitioners were prosecuted by the first respondent herein as per a protest complaint which was taken on file as C.C. 505 of 1993. They were charged for offences punishable under Sections 143,147, 148, 291, 379, 427,447, 506 (ii) read with Sec. 149 I.P.C.

2. The case of the prosecution is that on 11-09-1993 at 10.a.m. the accused persons criminally trespassed into the south western corner of the property in the possession of the complainant and committed the aforementioned offences.

3. The learned Magistrate, after trial, as per judgment dated 17-07-1996 found the revision petitioners guilty of the offences punishable under Sections 143, 147, 148, 447, 427 and 506 (ii) read with Sec. 149 I.P.C. They were, however, acquitted

of the rest of the offences. For the conviction under Sections 427 and 506 (ii) read with Sec. 149 I.P.C. each of the revision petitioners was sentenced to simple imprisonment for six months. On appeals preferred by the revision petitioners as Crl. A. Nos. 175 and 186 of 1996 before the Sessions Court, Kottayam, that Court as per common judgment dated 10-5-2002 dismissed the appeals confirming the conviction entered and the sentence passed. Hence, these revisions. The complainant had died in the meanwhile and his son was impleaded as the 3rd respondent in these revisions.

4. Pending these revisions, the revision petitioners have compounded the offences punishable under Sections 427 and 447 I.P.C. with the son of the deceased first respondent/complainant. They have filed Crl. M.A. No. 12259 of 2007 in Crl.R.P. No.914 of 2002 and Crl.M.A. No. 12260/07 in Crl.R.P. No. 915 of 2002 for recording the said composition. The said petitions have been allowed and the composition has been recorded and the same will have the effect of acquittal of the revision petitioners of the offences punishable under Sections 427 and 447 I.P.C. in view of Section 320 (8) Cr.P.C.

What now survives for consideration is the sustainability of the conviction and sentence with regard to the rest of the offences. When the revision petitioners have been acquitted of the offences under Sections 447 and 427 I.P.C., the substratum of the prosecution case has been lost and consequently the conviction for the rest of the offences cannot survive. The revision petitioners are accordingly acquitted of the offences punishable under Sections 143, 147, 148 and 506 (ii) read with Sec. 149 I.P.C. and are set at liberty.

These Revisions are disposed of accordingly.

V.Ramkumar, Judge

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V. RAMKUMAR, J.

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Crl. R.P. Nos. 914 of 2002 &
915 of 2002

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Dated: 27th November 2007

O R D E R